

LEGISLATURE OF NEBRASKA
NINETY-SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 904

Introduced by Schrock, 38

Read first time January 5, 2000

Committee: Natural Resources

A BILL

1 FOR AN ACT relating to natural resources districts; to amend
2 sections 46-656.25, 46-656.26, and 46-656.27, Reissue
3 Revised Statutes of Nebraska; to change ground water
4 management control and allocation provisions; and to
5 repeal the original sections.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 46-656.25, Reissue Revised Statutes
2 of Nebraska, is amended to read:

3 46-656.25. (1) A district in which a management area has
4 been designated shall by order adopt one or more of the following
5 controls for the management area:

6 (a) It may determine the permissible total withdrawal of
7 ground water for each day, month, or year and allocate such
8 withdrawal among the ground water users;

9 (b) It may adopt a system of rotation for use of ground
10 water;

11 (c) It may adopt well-spacing requirements more
12 restrictive than those found in sections 46-609 and 46-651;

13 (d) It may require the installation of devices for
14 measuring ground water withdrawals from water wells;

15 (e) It may adopt a system which requires reduction of
16 irrigated acres pursuant to subsection (2) of section 46-656.26;

17 (f) It may limit or prevent the expansion of irrigated
18 areas;

19 (g) It may require the use of best management practices;

20 (h) ~~(g)~~ It may require the analysis of water or deep
21 soils for fertilizer and chemical content;

22 (i) ~~(h)~~ It may provide educational requirements,
23 including mandatory educational requirements, designed to protect
24 water quality or to stabilize or reduce the incidence of ground
25 water depletion, conflicts between ground water users and surface
26 water appropriators, disputes over interstate compacts or decrees,
27 or difficulties fulfilling the provisions of other formal state
28 contracts or agreements;

1 (j) ~~(i)~~ It may require water quality monitoring and
2 reporting of results to the district for all water wells within all
3 or part of the management area; ~~and~~

4 (k) It may close all or a portion of the management area
5 to the issuance of additional permits or may condition the issuance
6 of additional permits on compliance with other rules and
7 regulations adopted and promulgated by the district to achieve the
8 purpose or purposes for which the management area was designated;
9 and

10 (1) ~~(j)~~ It may adopt and promulgate such other reasonable
11 rules and regulations as are necessary to carry out the purpose for
12 which a management area was designated.

13 (2) In adopting, amending, or repealing any control
14 authorized by subsection (1) of this section or sections 46-656.26
15 and 46-656.27, the district's considerations shall include, but not
16 be limited to, whether it reasonably appears that such action will
17 mitigate or eliminate the condition which led to designation of the
18 management area or will improve the administration of the area.

19 (3) Upon request by the district, the Director of Water
20 Resources shall review and comment on the adoption, amendment, or
21 repeal of any authorized control in a management area. The
22 director may hold a public hearing to consider testimony regarding
23 the control prior to commenting on the adoption, amendment, or
24 repeal of the control. The director shall consult with the
25 district and fix a time, place, and date for such hearing. In
26 reviewing and commenting on an authorized control in a management
27 area, the director's considerations shall include, but not be
28 limited to, those enumerated in subsection (2) of this section.

1 (4) If because of varying ground water uses, varying
2 surface water uses, different irrigation distribution systems, or
3 varying climatic, hydrologic, geologic, or soil conditions existing
4 within a management area the uniform application throughout such
5 area of one or more controls would fail to carry out the intent of
6 the Nebraska Ground Water Management and Protection Act in a
7 reasonably effective and equitable manner, the controls adopted by
8 the district pursuant to this section may contain different
9 provisions for different categories of ground water use or portions
10 of the management area which differ from each other because of
11 varying climatic, hydrologic, geologic, or soil conditions. Any
12 differences in such provisions shall recognize and be directed
13 toward such varying ground water uses or varying conditions.
14 Except as otherwise provided in this section, the provisions of all
15 controls for different categories of ground water use shall be
16 uniform for all portions of the area which have substantially
17 similar climatic, hydrologic, geologic, and soil conditions.

18 (5) The district may establish different water
19 allocations for different irrigation distribution systems, on the
20 condition that such different water allocations shall be authorized
21 for no more than five years from the time such allocations are
22 adopted.

23 (6)(a) The district may establish different provisions
24 for different hydrologic relationships between ground water and
25 surface water.

26 (b) For management areas a purpose of which is the
27 integrated management of hydrologically connected ground water and
28 surface water, the district may establish different provisions for

1 water wells constructed before the designation of a management area
2 for integrated management of hydrologically connected ground water
3 and surface water and for water wells constructed on or after the
4 designation date or any other later date or dates established by
5 the district.

6 (c) The district shall make a replacement water well as
7 defined in section 46-602, or as further defined in district rules
8 and regulations, subject to the same provisions as the water well
9 it replaces.

10 (7) If the district determines, following a public
11 hearing conducted pursuant to section 46-656.19, that the impact on
12 surface water supplies or the depletion or contamination of the
13 ground water supply in the management area or any portion of the
14 management area is so excessive that the public interest cannot be
15 protected solely through implementation of reasonable controls
16 adopted pursuant to subsection (1) of this section, it may close
17 all or a portion of the management area to the issuance of any
18 additional permits for a period of not more than five calendar
19 years. The area may be further closed thereafter by a similar
20 procedure for additional time periods of the same length. Any such
21 area may be reopened at any time the district determines that
22 conditions warrant new permits at which time the district shall
23 consider all previously submitted applications for permits in the
24 order in which they were received.

25 (8) Whenever a management area designated under section
26 46-656.39 or 46-656.52 encompasses portions of two or more
27 districts, the responsibilities and authorities delegated in this
28 section and sections 46-656.26 and 46-656.27 shall be exercised

1 jointly and uniformly by agreement of the respective boards of all
2 districts so affected. Whenever management areas designated by two
3 or more districts adjoin each other, the districts are encouraged
4 to exercise the responsibilities and authorities jointly and
5 uniformly by agreement of the respective boards.

6 (8) ~~(9)~~ For the purpose of determining whether conflicts
7 exist between ground water users and surface water appropriators,
8 surface water appropriators under the Nebraska Ground Water
9 Management and Protection Act does not include holders of instream
10 flow appropriations under sections 46-2,107 to 46-2,119.

11 Sec. 2. Section 46-656.26, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 46-656.26. (1) If allocation is adopted for use of
14 ground water for irrigation purposes in a management area, the
15 permissible withdrawal of ground water shall be allocated equally
16 per irrigated acre except as permitted by subsections (4) through
17 (6) of section 46-656.25. Such allocation shall specify the total
18 number of acre-inches that are allocated per irrigated acre per
19 year, except that the district may allow a ground water user to
20 average his or her allocation over any reasonable period of time
21 not to exceed five years. A ground water user may use his or her
22 allocation on all or any part of the irrigated acres to which the
23 allocation applies or in any other manner approved by the district.

24 (2) If annual rotation or reduction of irrigated acres is
25 adopted for use of ground water for irrigation purposes in a
26 management area, the nonuse of irrigated acres shall be a uniform
27 percentage reduction of each landowner's irrigated acres within the
28 management area or a subarea of the management area. Such uniform

1 reduction may be adjusted for each landowner based upon crops grown
2 on his or her land to reflect the varying consumptive requirements
3 between crops.

4 Sec. 3. Section 46-656.27, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 46-656.27. A district may ~~annually and shall at least~~
7 ~~once every three years~~ review any allocation, rotation, or
8 reduction control imposed in a management area and shall adjust
9 allocations, rotations, or reductions to accommodate new or
10 additional uses or otherwise reflect findings of such review,
11 consistent with the ground water management objectives. Such
12 review shall consider new development or additional ground water
13 uses within the area, more accurate data or information that was
14 not available at the time of the allocation, rotation, or reduction
15 order, the availability of supplemental water supplies, any changes
16 in ground water recharge, and such other factors as the district
17 deems appropriate.

18 Sec. 4. Original sections 46-656.25, 46-656.26, and
19 46-656.27, Reissue Revised Statutes of Nebraska, are repealed.